

# HOUSE . . . . . No. 1173

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By Mr. Larkin of Pittsfield, petition of Peter J. Larkin and others relative to enhancing English opportunities for students of the Commonwealth. Education.

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## The Commonwealth of Massachusetts

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### PETITION OF:

Peter J. Larkin                      Alice K. Wolf  
James B. Leary

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In the Year Two Thousand and Five.

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AN ACT RELATIVE TO ENHANCING ENGLISH OPPORTUNITIES FOR ALL STUDENTS IN THE COMMONWEALTH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1     SECTION 1. Chapter 71A, as most recently amended by  
2     chapter 386, of the acts of 2002, is hereby amended by striking  
3     out sections 1 through 9, inclusive, and inserting in place thereof  
4     the following sections:—  
5     Section 1. As used in this chapter, the following words shall,  
6     unless the context requires otherwise, have the following meanings:—  
7     “Academic standards”, academic standards established under  
8     section 1D of chapter 69 of the General Laws.  
9     “Commissioner”, the commissioner of education.  
10    “Curriculum frameworks”, curriculum frameworks established  
11    under section 1E of chapter 69 of the General Laws.  
12    “Department”, the department of education.  
13    “English as a second language”, a part-time program supporting the development of English language and skills for limited  
14    English proficient students transitioning or assigned to regular  
15    education classes.  
16    “English language learners program”, any of the following, or  
17    any combination thereof: transitional bilingual education, two-  
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20 way bilingual education, structured English immersion, English as  
21 a second language, or other full-time innovative program designed  
22 to accelerate English language proficiency and academic achieve-  
23 ment approved by the department under section 2A.

24 “Limited English proficient student”, (1) a student who was not  
25 born in the United States whose native language is other than Eng-  
26 lish and who is not able to perform ordinary class work in Eng-  
27 lish; or (2) a student who was born in the United States of  
28 non-English speaking parents and who is not able to perform ordi-  
29 nary class work in English.

30 “Office of language acquisition”, the office of language acqui-  
31 sition established in section 1A of chapter 69.

32 “Modified bilingual-world language bilingual education”, a  
33 full-time program of whole school instruction for limited English  
34 proficient students and fully English proficient students that incor-  
35 porates both the language and the culture of the language minority  
36 group to include it in all aspects of the school curricula in an Eng-  
37 lish speaking classroom where teachers are trained in English as a  
38 second language techniques.

39 “Structured English immersion”, a full-time program of acad-  
40 emic instruction and English language learning for limited English  
41 proficient students in which primarily English is the medium of  
42 classroom instruction and the native language of such student is  
43 used for support and clarification.

44 “Transitional bilingual education”, a full-time program of  
45 instruction (1) in all those courses or subjects which are required  
46 by the student’s school district which shall be given in the native  
47 language of the limited English proficient students who are  
48 enrolled in the program and also in English, (2) in the reading and  
49 writing of the native language of the limited English proficient  
50 students who are enrolled in the program and in the oral compre-  
51 hension, speaking, reading and writing of English, and (3) in the  
52 history and culture of the country, territory or geographic area  
53 which is the native land of the parents of the limited English pro-  
54 ficient students who are enrolled in the program and in the history  
55 and culture of the United States.

56 “Two-way bilingual education”, a full-time program in which  
57 the curriculum is structured so that limited English proficient stu-

58 dents of the same language group and fully English proficient stu-  
59 dents develop full literacy in 2 languages by being taught in the  
60 same classroom in which the medium of instruction is both Eng-  
61 lish and the language of the limited English proficient students.

62 Section 2. Each school district shall determine annually, not  
63 later than the first day of March, under regulations promulgated  
64 by the department, the number of limited English proficient stu-  
65 dents within their school system in grades kindergarten through  
66 12. At the beginning of any school year, the school committee  
67 shall establish a policy requiring that the district offer at least 1  
68 English language learners program for all limited English profi-  
69 cient students. Every school district shall assess, using uniform  
70 assessment instruments prescribed by the department, the lan-  
71 guage dominance, level of English proficiency, and ability to per-  
72 form regular education classroom work in English of a newly  
73 enrolled student who may be of limited English proficiency and  
74 the academic level of such student, for the purpose of placing the  
75 student in an English language learners program. Every limited  
76 English proficient student enrolled in a public school system shall  
77 participate in an English language learners program established by  
78 the school district in which the student resides, unless the parents  
79 or legal guardian of the student decide otherwise in accordance  
80 with section 3. An English language learners program shall con-  
81 sist of any of the following, or any combination thereof: transi-  
82 tional bilingual education, two-way bilingual education, structured  
83 English immersion, English as a second language, or other innov-  
84 ative program designed to accelerate English language proficiency  
85 approved by the department under section 2A. No school district  
86 with 20 or more limited English proficient students in any 1 lan-  
87 guage group may offer only English as a second language. In any  
88 school district with 50 or more limited English proficient students  
89 in any 1 language group at the elementary school level, the school  
90 committee shall establish a policy requiring that the district offer  
91 at least 2 English language learners programs for those students.  
92 In any school district with 50 or more limited English proficient  
93 students in any 1 language group at the middle school level, the  
94 school committee shall establish a policy requiring that the district  
95 offer at least 2 English language learners programs for those stu-

96 dents. In any school district with 50 or more limited English profi-  
97 cient students in any 1 language group at the high school level, the  
98 school committee shall establish a policy requiring that the district  
99 offer at least 2 English language learners programs for those stu-  
100 dents. The policy shall be consistent with the school district's  
101 course enrollment standards. In determining the types of English  
102 language learners programs to be offered, the policy determination  
103 of the school committee shall reflect that strong consideration was  
104 given to the programs requested by the parents or legal guardians  
105 of limited English proficient students.

106 Section 2A. At least once every 3 years, each school district  
107 with any limited English proficient students shall submit a district  
108 plan to the commissioner for approval in accordance with regula-  
109 tions promulgated by the department. The office of language  
110 acquisition shall make recommendations to the commissioner on  
111 whether any such plan shall be approved. The district shall pro-  
112 vide any limited English proficient student with an appropriate  
113 English language learners program to assist such student in  
114 becoming proficient in using the English language and to enable  
115 the student to participate effectively in the district's regular or  
116 advanced educational programs and extracurricular activities. To  
117 the extent practical, districts shall make available reasonable  
118 enrichment opportunities for interested limited English proficient  
119 students, either during or outside the regular school day,  
120 including, but not limited to, as part of an English language  
121 learners program or through foreign language courses or after  
122 school programs, to help them maintain their native language  
123 skills. The district plan shall define and address all elements and  
124 goals of the program or programs to be chosen by the district.  
125 Prior to developing a district plan, the district shall notify parents  
126 or legal guardians of limited English proficient students within the  
127 district that such a plan is being developed, and shall involve such  
128 parents or legal guardians in the development and review of such  
129 plan.

130 In a school district with 20 or more limited English proficient  
131 students in any 1 language group, the district plan shall include,  
132 but not be limited to, the following:

133 (1) A description of programs and services currently being pro-  
134 vided by the district to limited English proficient students.

135 (2) A description of the range of English language learners pro-  
136 grams and services the district will make available to all limited  
137 English proficient students with a rationale for each option pro-  
138 posed, and a justification for any proposed changes in existing  
139 programs and services.

140 (3) A description of the opportunities the district will make  
141 available to limited English proficient students for instruction in  
142 maintaining or developing proficiency in their native language,  
143 including, but not limited to, as part of an English language  
144 learners program or through foreign language classes or after  
145 school programs.

146 (4) A description of how English language learners programs or  
147 services will be provided to ensure that a student has the opportu-  
148 nity to: (a) become proficient in using the English language for  
149 oral communication and literacy in English; (b) master curriculum  
150 content according to the district's curriculum guidelines, state aca-  
151 demic standards and curriculum frameworks; and (c) be able to  
152 participate in the district's regular or advanced educational pro-  
153 grams and extracurricular activities.

154 (5) A description of the qualifications and certification status of  
155 all staff who will provide English language learners programs and  
156 services to limited English proficient students.

157 (6) A description of the uniform assessment instruments, pre-  
158 scribed by the department, to be utilized by the district to deter-  
159 mine the language dominance, level of English proficiency and  
160 ability to perform regular education classroom work in English of  
161 a newly enrolled student who may be of limited English profi-  
162 ciency and the academic level of such student, for the purpose of  
163 placing such student in a program established under this chapter.  
164 Such description shall include the qualifications of staff adminis-  
165 tering such assessments.

166 (7) A description of how the student's oral comprehension,  
167 speaking, reading and writing of English will be assessed annually  
168 by qualified personnel, using uniform assessment instruments pre-  
169 scribed by the department, and how these assessments will be  
170 used in conjunction with other evaluation information to deter-  
171 mine when the student has achieved a level of English language  
172 proficiency that will enable the student to perform regular educa-  
173 tion class work.

174 (8) A description of how the school district will evaluate the  
175 effectiveness of English language learners programs and services  
176 provided to limited English proficient students in terms of helping  
177 such students attain English language proficiency and master aca-  
178 demic standards and curriculum frameworks.

179 (9) A description of the measures that will be used to ensure  
180 that former limited English proficient students in regular educa-  
181 tion classrooms have the opportunity to continue their progress in  
182 all areas of the curriculum, including compliance with the acad-  
183 emic standards and curriculum frameworks.

184 (10) A description of the measures that will be used to ensure  
185 that limited English proficient students whose parents or legal  
186 guardians have chosen to enroll them in a regular education class-  
187 room and not in an English language learners program will be pro-  
188 vided the opportunity to continue to progress in all areas of the  
189 curriculum, including compliance with the academic standards  
190 and curriculum frameworks.

191 (11) A description of the training to be provided for all staff in  
192 working with culturally and linguistically diverse student popula-  
193 tions. Such description shall also include a staff development plan  
194 that describes how the district will build capacity among all staff  
195 in the school district to serve limited English proficient students.

196 (12) A description and documentation of how principals,  
197 teachers, parents or legal guardians of limited English proficient  
198 students, parent advisory councils and the general public were  
199 included in the development and review of the district plan.

200 (13) A description of how parents or legal guardians of limited  
201 English proficient students will be informed when it is determined  
202 through assessments prescribed by the department that their child  
203 can participate fully in the English language curriculum without  
204 native language or other language support services.

205 (14) A description of how parents or legal guardians of limited  
206 English proficient students will be provided the opportunity to  
207 continue to remain involved in English language learners pro-  
208 grams.

209 In a school district with fewer than 20 limited English profi-  
210 cient students in any 1 language group, the district plan shall  
211 include, but not be limited to, the following:

212 (1) A description of the programs and services currently being  
213 provided by the district to limited English proficient students.

214 (2) A description of the range of English language learners pro-  
215 grams and services the district will make available to all limited  
216 English proficient students with a rationale for each option pro-  
217 posed, and a justification for any proposed changes in existing  
218 programs and services.

219 (3) A description of the qualifications and certification status of  
220 all staff who will provide English language learners programs and  
221 services to limited English proficient students.

222 (4) A description of the uniform assessment instruments, pre-  
223 scribed by the department, to be utilized by the district to deter-  
224 mine the language dominance, level of English proficiency, and  
225 ability to perform regular education classroom work in English of  
226 a newly enrolled student who may be of limited English profi-  
227 ciency and the academic level of such student, for the purpose of  
228 placing such student in an English language learners program.  
229 Such description shall include the qualifications of staff adminis-  
230 tering such assessments.

231 (5) A description of how the student's oral comprehension,  
232 speaking, reading and writing of English will be assessed annually  
233 by qualified personnel, using uniform assessment instruments pre-  
234 scribed by the department, and how these assessments will be  
235 used in conjunction with other evaluation information to deter-  
236 mine when the student has achieved a level of English language  
237 proficiency that will enable the student to perform regular educa-  
238 tion class work.

239 A district plan shall be valid for 3 years. In the third year, a  
240 school district shall submit an updated district plan to the commis-  
241 sioner for approval in the manner provided herein for submission  
242 of a district plan. In addition to the requirements of this section  
243 for a district plan, the updated district plan shall also include doc-  
244 umentation evidencing the academic outcomes for limited English  
245 proficient students served under the prior district plan.

246 In a school district with 20 or more limited English proficient  
247 students in any 1 language group, no district plan or updated dis-  
248 trict plan shall be submitted to the commissioner until after a  
249 public hearing, with due notice to interested parties, has been held

250 on such plan. The district shall make any such plan available for  
251 public inspection at least 10 days prior to any public hearing. Due  
252 notice shall include notification published in a newspaper of  
253 general circulation in the district, and other reasonable steps to  
254 notify parents of limited English proficient students within the  
255 district and other interested parties of such hearing, not less than  
256 15 days prior to any such hearing. Any such notification shall  
257 include a brief description of the plan, the date, time and place of  
258 the hearing, and shall indicate the place where the plan is avail-  
259 able for public inspection. Notices to parents or legal guardians of  
260 limited English proficient students required by this section shall,  
261 to the maximum extent possible, be in a language understandable  
262 by the parents or legal guardians.

263 If the commissioner determines that a district is not in compli-  
264 ance with this section, or that a district plan cannot be approved as  
265 submitted, the office of language acquisition shall provide advice  
266 and technical assistance to the district and shall set a date certain  
267 for the submission of a revised district plan. Regulations promul-  
268 gated by the department to implement this chapter shall include,  
269 but not be limited to, measures to deal with districts that fail to  
270 submit district plans, or that submit district plans that the commis-  
271 sioner does not approve.

272 The district shall send report cards and progress reports,  
273 including, but not limited to, progress in becoming proficient in  
274 using the English language, and other school communications to  
275 the parents or legal guardians of students enrolled in English lan-  
276 guage learners programs in the same manner and frequency as  
277 report cards and progress reports of other students enrolled in the  
278 district. The reports shall, to the maximum extent possible, be  
279 written in a language understandable to the parents and legal  
280 guardians of such students.

281 Limited English proficient students in any English language  
282 learners program shall be taught to the same academic standards  
283 and curriculum frameworks as all students, and shall be provided  
284 the same opportunities to master such standards and frameworks  
285 as other students. Districts shall regularly assess mastery of acad-  
286 emic standards and curriculum frameworks; provided, that such  
287 assessments may be conducted in a language other than English so



288 long as the student remains in an English language learners pro-  
289 gram.

290 In order to encourage innovation and best practices, school dis-  
291 tricts may develop innovative programs designed to accelerate  
292 English language proficiency. Any such program shall provide  
293 limited English proficient students with the opportunity to develop  
294 oral comprehension, speaking, reading, and writing of English and  
295 to meet academic standards and curriculum frameworks. Such  
296 programs may include, but not be limited to, modified bilingual  
297 world language bilingual education. All such programs shall be  
298 submitted to the department for review and approval. The office  
299 of language acquisition shall review and make recommendations  
300 on all such programs.

301 The office of educational quality and accountability shall con-  
302 duct on-site visits to school districts with approved district plans,  
303 established under this section, at least once every 5 years for the  
304 purpose of evaluating the effectiveness of such plan and to vali-  
305 date evidence of educational outcomes. The evaluation shall  
306 include, but not be limited to, a review of individual student  
307 records of all limited English proficient students, a review of the  
308 programs and services provided to limited English students to  
309 determine if they are in accordance with the district plan, and a  
310 review of the drop-out rate of limited English proficient students  
311 formerly enrolled in the district's English language learners pro-  
312 gram or programs within the prior 3 years.

313 In the event a review and evaluation undertaken under this  
314 section demonstrates that a district is substantially out of compli-  
315 ance with the district plan, or is failing to adequately improve  
316 educational outcomes for limited English proficient students  
317 enrolled in English language learners programs, the commissioner  
318 may recommend to the board of education that any school within  
319 the district be declared under-performing under sections 1J and  
320 1K of chapter 69.

321 Section 2B. School districts shall assess annually all limited  
322 English proficient students in the oral comprehension, speaking,  
323 reading, and writing of English by means of English proficiency  
324 uniform assessment instruments intended for limited English pro-  
325 ficient students, which have been prescribed by the department.

326 Except as provided in this section, any limited English proficient  
327 student may remain in an English language learners program for a  
328 period of 2 years, or until such time as the student achieves a level  
329 of English language proficiency that will enable the student to  
330 perform successfully in classes in which instruction is given only  
331 in English as determined by scores on English proficiency assess-  
332 ments as set forth in this section, whichever occurs first. Only  
333 full-day kindergarten shall be counted toward the time limitations  
334 set forth in this section. School districts shall develop an intensive  
335 English learning success plan for any limited English proficient  
336 student whom the district determines fails to achieve scores on  
337 English proficiency assessments that, in the determination of the  
338 department, reflect sufficient progress toward achieving English  
339 language proficiency following the student's first year in any Eng-  
340 lish language learners program. Any such plan shall be developed  
341 with the participation and approval of the student's parents or  
342 legal guardian. The plan shall concentrate on the needs of the stu-  
343 dent to master English language literacy skills and shall specify  
344 such instruction or services as intensive English classes, intensive  
345 tutoring, after or before school programs, summer programs, lit-  
346 eracy mentoring, and other academic supports that will assist the  
347 student in the rapid acquisition of English necessary to access aca-  
348 demic standards and curriculum frameworks at grade level. Any  
349 student who fails to achieve scores on English proficiency assess-  
350 ments that, in the determination of the department, reflect suffi-  
351 cient proficiency that will enable the student to perform  
352 successfully in classes in which instruction is given only in Eng-  
353 lish, may remain or be placed in such intensive plan for up to 1  
354 additional year, with the approval of the student's parents or legal  
355 guardian.

356 Any limited English proficient student enrolled in a two-way  
357 bilingual education program who has achieved sufficient scores on  
358 English proficiency assessments that, in the determination of the  
359 department, reflect a level of English proficiency appropriate to  
360 the student's grade level, may remain enrolled in such programs  
361 for longer than 3 years.

362 If later evidence suggests, as determined by the school district,  
363 that a limited English proficient student transferred from an Eng-

lish language learners program to a regular education program prior to his third year in such English language learners program is still disadvantaged by a lack of English proficiency and may benefit from being re-enrolled, under an intensive English learning success plan, in an English language learners program offered by the district, such student, with the approval of the student's parents or legal guardian, may be so re-enrolled for a length of time equal to that which remained at the time he was transferred.

Nothing in this chapter shall be construed to prohibit, limit, restrict or prevent, an educational agency, as defined in 20 U.S.C. 1720 from complying with the provisions of 20 U.S.C. 1703 (f).

In the event of any conflict between this chapter and an individual educational plan developed for a school age child with a disability under chapter 71B, the provisions of such plan shall prevail.

Section 3. School districts shall notify, in writing, the parents or legal guardian of a limited English proficient student of the English language learners program that are available within the district, and shall recommend a specific program for the student. Such notice shall be sent by mail not later than 10 days after the enrollment of the student in the school district. The notice shall contain a simple, non-technical description of the purposes, method and content of the various programs, reasons for the school district's recommendation of a specific program, and shall inform the parents or legal guardian that they have the right to visit English language learners program classes in the school district, and to come to the school for a conference to explain the nature of the various English language learners programs. The notice shall further inform such parents or legal guardian that they have the absolute right, if they so desire, to choose any English language learners program for the student from among those provided by the school district, to prevent the student from being placed in an English language learners program, or to withdraw the student from a program, in the manner as hereinafter provided in this section. The notice shall also inform such parents or legal guardian of the existence of any parent advisory council established within the district under this section. Any such notice shall

402 be written in English and in the language of which the parents or  
403 legal guardians so notified possesses a primary speaking ability.

404 In any case where a district recommends that a student be  
405 placed in an English language learners program, the parents or  
406 legal guardian of such student shall have the right, either at the  
407 time of the original notification under this section, or at the close  
408 of any marking period thereafter, to choose an English language  
409 learners program for the student from among those provided by  
410 the school district, to prevent the student from being placed in an  
411 English language learners program, or to withdraw the student  
412 from such program by sending written notice of such decision by  
413 mail to the school authorities of the school district in which the  
414 student is enrolled. Such written notice shall be sent not later than  
415 10 school days after receipt of the notice sent by the school dis-  
416 trict, under this section. In the case of a student who is to be with-  
417 drawn from an English language learners program, the written  
418 notice shall be sent not later than 10 school days after the close of  
419 any marking period.

420 Each school district operating an English language learners pro-  
421 gram or programs for 20 or more limited English proficient stu-  
422 dents in any 1 language group shall establish a parent advisory  
423 council. The parent advisory council shall be comprised of parents  
424 or legal guardians of students who are enrolled in English lan-  
425 guage learners programs within the district. Each parent advisory  
426 council shall have at least 1 representative from every language  
427 group in which a program is conducted in a given district. Mem-  
428 bership shall be restricted to parents or legal guardians of students  
429 enrolled in English language learners programs within the district.  
430 The duties of the parent advisory council shall include, but not be  
431 limited to, advising the school district on matters that pertain to  
432 the education of students in English language learners programs,  
433 meeting regularly with school officials to participate in the plan-  
434 ning, development, implementation, and evaluation of the district  
435 plan required by this chapter, and to participate in the review of  
436 school improvement plans established under section 59C of  
437 chapter 71 as they pertain to limited English proficient students.  
438 Any parent advisory council may, at its request, meet at least once  
439 annually with the school council. The parent advisory council

440 shall establish by-laws regarding officers and operational proce-  
441 dures. In the course of its duties under this section, the parent  
442 advisory council shall receive assistance from the director of Eng-  
443 lish language learners programs for the district or other appro-  
444 priate school personnel as designated by the superintendent.

445 Section 4. A school district may allow a non-resident limited  
446 English proficient student to enroll in or attend its English lan-  
447 guage learners programs, and the tuition for such student shall be  
448 paid by the school district in which the student resides.

449 Any school district may join with any other school district or  
450 districts to provide English language learners programs required  
451 or permitted by this chapter.

452 Section 5. In order to ensure daily opportunities for speaking  
453 English and for contact with English speaking peers, limited Eng-  
454 lish proficient students shall participate fully with their English-  
455 speaking peers in those regular education classrooms, subjects or  
456 activities in which verbalization in English is not essential to  
457 understanding, including, but not necessarily limited to, home-  
458 room, art, music, physical education, recess and lunch. Each  
459 school district shall ensure that limited English proficient students  
460 have practical and meaningful opportunity to participate fully in  
461 the extra-curricular activities of the regular education programs in  
462 the district. English language learners programs shall be located,  
463 whenever feasible, in the regular public schools of the district  
464 rather than separate facilities.

465 Students enrolled in an English language learners program,  
466 whenever possible, shall be placed in classes with students of  
467 approximately the same age and level of educational attainment. If  
468 students of different age groups or educational levels are com-  
469 bined, the school district so combining shall ensure that the  
470 instruction given each student is appropriate to the student's level  
471 of educational attainment and the school district shall keep ade-  
472 quate records of the educational level and progress of each student  
473 enrolled in a program. The maximum student-teacher ratio and  
474 age span shall be set by the department and shall reflect the  
475 unique educational needs of children enrolled in English language  
476 learners programs.

477 Section 6. The commissioner shall grant certificates to teachers  
478 of bilingual education or English as a second language under  
479 section 38G of chapter 71; provided, that teachers of structured  
480 English immersion, or innovative programs approved by the  
481 department under section 2A shall be certified in bilingual educa-  
482 tion or English as a second language. No person shall be eligible  
483 for employment by a school district as a teacher of bilingual edu-  
484 cation, or English as a second language, except as provided in this  
485 section, unless he has been granted a certificate by the commis-  
486 sioner under said section 38G with respect to the type of position  
487 for which he seeks employment. Nothing in this section shall be  
488 construed to prevent a school committee from prescribing addi-  
489 tional qualifications.

490 In cases of shortages of certified teachers of bilingual education  
491 or English as a second language, as determined by the commis-  
492 sioner, the commissioner may grant a waiver to a teacher of bilin-  
493 gual education or English as a second language who is not  
494 certified with respect to the type of position for which he seeks  
495 employment, if he presents the commissioner with satisfactory  
496 evidence indicating he: (1) possesses a speaking and reading  
497 ability in a language, other than English, in which English lan-  
498 guage learners programs are offered and is proficient in written  
499 and oral English; (2) is of sound moral character; (3) possesses a  
500 bachelor's degree or earned a higher academic degree; (4) meets  
501 such requirements as to courses of study, semester hours therein,  
502 experience and training as may be required by the board of educa-  
503 tion that will enable him to become a certified teacher of bilingual  
504 education, or English as a second language in the state; and (5) is  
505 legally present in the United States and possess legal authorization  
506 for employment. Any waiver shall be subject to annual renewal by  
507 the commissioner; provided, that the waiver may be renewed not  
508 more than 4 times. In granting a waiver under this section, the  
509 commissioner shall give preference to persons who have been cer-  
510 tified as teachers in their country or place of national origin.

511 Section 7. A school district may establish, on a full or part-time  
512 basis, pre-school or summer school English language learners pro-  
513 grams for limited English proficient students or join with the other  
514 school districts in establishing such pre-school or summer pro-  
515 grams. Pre-school or summer programs shall not substitute for

516 English language learners programs required to be provided  
517 during the regular school year. A school district may establish  
518 after school programs to assist limited English proficient students  
519 in developing and maintaining native language proficiency.

520 Section 8. The state treasurer shall annually, on or before  
521 November twentieth, reimburse any city, town, or regional school  
522 district or independent vocational school for expenditures incurred  
523 during the previous fiscal year in the transportation of any pupil  
524 enrolled in an English language learners program and who resides  
525 at least one and one-half miles from the school which the pupil  
526 attends, as measured by a commonly traveled route, in the manner  
527 hereinafter defined. Such reimbursements shall include: first, an  
528 amount for each pupil which is equal to the average transportation  
529 services expenditures per pupil, enrolled in a regular day program  
530 in said city, town, regional school district or independent voca-  
531 tional school during said fiscal year, provided that each such pupil  
532 enrolled in a regular day program resides at least one and one-half  
533 miles from the school which said pupil attends; and second, the  
534 entire amount by which the average transportation services expen-  
535 diture per pupil enrolled in such English language learners pro-  
536 gram in said city, town, regional school district or independent  
537 vocational school during said fiscal year may exceed the aforesaid  
538 average transportation services expenditure per pupil enrolled in a  
539 regular day program. In no instance, however, shall the amount of  
540 reimbursement for such excess costs per pupil exceed one hundred  
541 and ten percent of the average of such excess costs per pupil in all  
542 cities, towns, regional school districts and independent vocational  
543 schools in the commonwealth during the fiscal year in which such  
544 expenditures were made.

545 In determining each said average transportation services expen-  
546 ditures per pupil enrolled in a regular day program in each city,  
547 town, regional school district and independent vocational school,  
548 the department of education shall use the transportation services  
549 expenditures per pupil eligible for reimbursement under sections  
550 seven A, seven B, or sixteen C of chapter seventy-one, whichever  
551 is higher, during the same fiscal year. The commissioner of educa-  
552 tion may, by regulation, under the direction of the state board of  
553 education, further define expenditures per pupil to be used in  
554 aforesaid computations.

555 Section 9. In addition to the powers and duties in prescribed in  
556 previous sections of this chapter, the department shall exercise its  
557 authority and promulgate rules and regulations to achieve the full  
558 implementation of all provisions of this chapter. A copy of the  
559 rules and regulations issued by the department shall be submitted  
560 to the joint committee on education, arts and humanities for  
561 review and shall be sent to all school districts.

1 SECTION 2. Sections 2, 3, and 4 of chapter 386 of the acts of  
2 2002 are hereby repealed.

1 SECTION 3. Section 1 shall take effect on July 1, 2006.